

July 2, 2002

Honorable Delaine A. Eastin
Superintendent of Public Instruction
California Department of Education
721 Capitol Mall
PO Box 944272
Sacramento, CA 94244-2720

Honorable Robert Presley
Agency Secretary
Youth and Adult Correctional Agency
1100 11th St. 4th Floor
Sacramento, CA 95814

Dear Superintendent Eastin and Secretary Presley:

This is to inform you that we have conditionally approved California's Eligibility Document Submission for Federal Fiscal Year (FFY) 2002 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by California to the Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2002 including the Eligibility Documents submitted April 11, 2000, subsequent revisions to those Eligibility Documents, and the Submission Statement and other eligibility documentation submitted to OSEP on June 6, 2002; and
2. The June 3, July 1, and July 2, 2002 letters from California to OSEP, in which California provides the following assurances:
 - (a) In the July 2, 2002 letter, the State assures that as soon as possible, but no later than July 1, 2003, the California Department of Education (CDE) will make every reasonable effort to enact all the changes to its statutes, regulations, policies and procedures, that are necessary to make them consistent with the requirements of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 300 (including, but not limited to, making all of the changes necessary to address any issues that OSEP identifies in its review of the State's May 31 and June 6, 2002 submission of eligibility documentation), and will provide the Secretary with a copy of the revised documents showing those changes.
 - (b) In the June 3, 2002 letter, California assures that it will take steps to ensure that, throughout the period of this grant award, all public agencies in the State that provide

special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. California further assures that it will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of the State's eligibility documents.

(c) In the July 1, 2002 letter, California assures that: (i) no later than July 1, 2003, all public agencies that receive Part B funds will have on file with CDE policies and procedures that meet all of the requirements of 34 CFR §300.220; and (ii) during the 2002-2003 school year, CDE will conduct verification reviews in a sample of school districts that have submitted a self-review and use CDE's verification findings as part of its evaluation of the effectiveness of the self-review process in ensuring the identification and correction of noncompliance.

Please note that as part of your Eligibility Document Submission for FFY 2002, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by the State, after OSEP approval, to information that is a part of a State's eligibility documentation, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

The State's FFY 2001 Part B grant awards included special conditions relating to: (1) CDE's general supervisory responsibility under Part B; and (2) the State's responsibility to make a free appropriate public education available to eligible individuals with disabilities who are convicted as adults and incarcerated in adult prisons.

As detailed in Enclosure C of this letter, the Department has determined that the State remains a high risk grantee in regard to the provision of special education and related services to eligible individuals with disabilities who are convicted as adults and incarcerated in adult prisons, and Enclosure C sets forth a special condition relating to that issue. The Department's continuing imposition of a Special Condition relating to the provision of services in prisons is based upon the State's failure to fully address the California Department of Corrections' (CDC's) failure to ensure that a free appropriate public education (FAPE) is available to eligible inmates with disabilities in adult correctional facilities.¹

The grant awards for FFY 2002 do not include special conditions relating to CDE's general supervisory authority because the Department has determined that the State has substantially met the special conditions for FFY 2001 relating to CDE's general supervisory responsibility. In order to determine that the status of CDE's efforts to meet the FFY 2001 Special Conditions and

¹ On June 5, 1997, in his Executive Order W-155-97, former Governor Wilson transferred from CDE to CDC the responsibility for ensuring that the requirements of the IDEA are met with respect to eligible youth who are convicted as adults under State law and are incarcerated in adult prisons.

the impact of those efforts, OSEP reviewed the documentation that the State submitted pursuant to the Special Conditions, and conducted a focused follow-up visit in May 2002, during which OSEP collected data in five school districts and from CDE. A more detailed analysis of OSEP's review and determination will be provided under separate cover. However, in summary, based upon all of the information reviewed, OSEP has determined that CDE has substantially met the FFY 2001 Special Conditions. CDE has demonstrated that, through its multi-faceted Quality Assurance Process, it has an effective system for identifying noncompliance, and has implemented systematic procedures for ensuring that identified noncompliance is corrected. CDE has also demonstrated that it takes enforcement actions to ensure the prompt and effective correction of noncompliance. CDE's enforcement actions have included filing civil actions in State Court to require district compliance, requiring districts to address noncompliance in public meetings of the school board, and ordering the provision of compensatory services and/or reimbursements. CDE is also using performance, complaint and monitoring data to identify high-risk districts with significant noncompliance and providing those districts with intensive technical assistance and intervention. CDE has also made specific changes to its self-review process and those changes appear to allow CDE to make accurate and comprehensive determinations of compliance with the requirements of Part B. The impact of these measures has been evidenced by changes in compliance. For example, since 1999 there has been a 65% decrease in the number of overdue Individualized Education Programs, and a 68% decrease in the number of overdue reevaluations.

Although CDE has made substantial progress and has met the terms of the Special Conditions, it is important that CDE continue its rigorous and systematic efforts to identify and correct noncompliance in the more than 1000 public agencies in the State that it must oversee. Effective and timely technical assistance and guidance, monitoring, and follow-up are essential components CDE's general supervision. CDE's significant increase of the number of well-trained monitoring and complaint resolution staff has been essential to CDE's substantial progress in meeting its general supervisory responsibility. It is critical that CDE ensure that it has the personnel needed to continue to achieve compliance and ensure improved results for children with disabilities in the State.

Enclosed are grant awards for funds currently available under the Department of Education FFY 2002 Appropriations Act for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2002-2003 and are available for obligation by States from July 1, 2002 through September 30, 2004.

The amount in your award for Section 619 represents the full amount of funds to which you are entitled. However, the amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2002. Of the \$7,528,533,000 appropriated for Section 611 in FFY 2002, \$2,456,533,000 is available for awards on July 1, 2002, and \$5,072,000,000 will be available on October 1, 2002.

The funding formula for the Section 611 program is the same as was implemented for FFY 2000. Subject to certain maximum and minimum funding requirements, State allocations are based on

the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities.

Enclosure A provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure A shows funding levels for distribution of Section 611 funds.

Enclosure B provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure B shows State-by-State funding levels for distribution of Section 619 funds.

These awards are based on submission of a complete eligibility document package, a signed assurance statement regarding resolution of issues identified in OSEP's review of that eligibility document package, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

Stephanie S. Lee
Director
Office of Special Education Programs

Enclosures

cc: Dr. Alice Parker